

# EXHIBIT 3

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

VITO A. PESCE, on behalf of  
himself and all other similarly  
situated,

Plaintiff,

Vs

FIRST CREDIT SERVICES, INC., dba  
ACCOUNTS RECEIVABLE TECHNOLOGIES,

Defendants.

DEPOSITION OF FRANK RUSSO  
THURSDAY, NOVEMBER 17, 2011  
WOODBIDGE, NEW JERSEY  
10:00 A.M. - 3:00 P.M.

REPORTER:  
Charles R. Senders,  
License No. 596

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FIRST CREDIT SERVICES, INC., dba  
ACCOUNTS RECEIVABLE TECHNOLOGIES,

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TRANSCRIPT of the stenographic  
notes of the proceedings in the above entitled  
matters, as taken by and before CHARLES R.  
SENDERS, Certified Shorthand Reporter (License  
No. 596) and Notary Public of the State of New  
Jersey, held at the offices of N.J. Steno,  
Inc., 171 Green Street, Woodbridge, New Jersey  
on Thursday, November 17, 2011, commencing at  
10:00 in the morning, pursuant to notice.

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<p style="text-align: right;">109</p> <p>1 Q. So you received 132 documents 2 back. Right now seventy-five percent of the 3 132 show consent. Is that fair? 4 <b>A. We're not done with our</b> 5 <b>investigation yet.</b> 6 Q. I'm not there. If you can just 7 answer the question, we can get through this. 8 You can tell me what else you are doing 9 expecting to get consent for the rest of that. 10 You hope a truckload of documents arrives 11 tomorrow showing consent for every one. 12 I want to talk about what you have 13 right now, then we can talk about what steps 14 you re taking to get the balance of the 15 information, okay? 16 <b>A. Okay.</b> 17 Q. So I'm just going to reiterate what 18 I think we have here. So we have 3,183 19 persons; correct? 20 <b>A. Persons, yes, correct.</b> 21 <b>Q.</b> 22 MR. VLAHAKIS: So Keith, can you 23 stop, 3,183? 24 THE WITNESS: 25 <b>A. I'm sorry, I got 3,113.</b></p>	<p style="text-align: right;">111</p> <p>1 if that's the right number-- 2 <b>A. Hold on, what was the number you</b> 3 <b>gave me?</b> 4 Q. 2,980? 5 MR. VLAHAKIS: Stop talking over 6 each other. 7 <b>A. 2,980, plus 132, 3,112. Actually,</b> 8 <b>it is 2,989 plus 132, comes out to 3,113, minus</b> 9 <b>132. So the exact number is 2,981. That's the</b> 10 <b>exact number.</b> 11 Q. All right. So for those 2,981 12 persons-- 13 <b>A. Yes.</b> 14 Q. --FCS is still waiting for 15 information to show consent. Is that fair? 16 <b>A. Yes.</b> 17 Q. You mentioned you just received 18 documents. What creditor asked you to subpoena 19 them? 20 <b>A. I'm sorry, say that again?</b> 21 Q. A moment ago you mentioned some 22 creditor requested that FCS subpoena them? 23 <b>A. I believe that was BMW.</b> 24 Q. Okay. Now, I'm going to go through 25 a list here that was given to me. Are you</p>
<p style="text-align: right;">110</p> <p>1 Q. 3,113. Thank you. So we have 2 3,113? 3 <b>A. Correct.</b> 4 Q. So far FCS has documents, 132 5 documents and seventy-five percent of which 6 show consent; correct? 7 <b>A. Yes.</b> 8 Q. Do you have an exact number rather 9 than just seventy-five percent? 10 <b>A. Say that again?</b> 11 Q. Do you know how much--of the 132, 12 exactly how many FCS believes show consent? 13 <b>A. I can get that for you.</b> 14 Q. Please. I know you were saying 15 seventy-five percent. You know, to me that 16 seventy-five percent is ninety-nine. Which 17 means that the others don't have consent right 18 now. 19 <b>A. I can get that for you.</b> 20 Q. But you believe it is around 21 seventy-five percent? 22 <b>A. It is a very high percent, well</b> 23 <b>into the seventy-five range.</b> 24 Q. So, one second here. So for the 25 other 2,908 persons, I have to calculate, see</p>	<p style="text-align: right;">112</p> <p>1 still waiting for additional information from 2 Advanced Mercury? 3 <b>A. I can tell you, Keith, that we will</b> 4 <b>cooperate to our level best to get all of this</b> 5 <b>information. It is a very time consuming</b> 6 <b>process.</b> 7 Q. Okay. 8 <b>A. It is also a process that we can't</b> 9 <b>control. We got to kind of-- you know, it is</b> 10 <b>our client who is giving us this information.</b> 11 Q. Okay. Do you have any time frames 12 on when FCS believes it can obtain all the 13 information it needs to show whether there is 14 consent or not? 15 <b>A. I can tell you, Keith, those 132</b> 16 <b>took well over a month already. If you want to</b> 17 <b>do the math on that.</b> 18 Q. Well, what other creditors are 19 going to send you the documents or you just 20 don't know? 21 <b>A. I'm sorry?</b> 22 Q. I'm trying to figure out what 23 creditors had promised-- you said BMW. What 24 has Advanced Mercury told FCS? 25 <b>A. I don't know on a specific basis,</b></p>

<p style="text-align: right;">121</p> <p>1 about Document 36-7, filed 8/9/11. That's the 2 signature page? 3 MR. KEOGH: Yes. 4 Q. Mr. Russo, are you on page seven of 5 thirty? 6 A. Yes. 7 Q. There is a name Frank Russo there. 8 Do you see that? 9 A. I do. 10 Q. Then there is not a signature, but 11 there is a Frank Russo cursive or title there. 12 Do you see that? 13 A. I do. 14 Q. Did you sign this document? 15 A. Yes. 16 Q. How did you sign this document? 17 A. I don't remember. 18 Q. Well, you signed a version of this 19 document via handwriting? 20 A. I really don't remember how we did 21 it, to be honest with you. But I do recall 22 this, absolutely. 23 Q. Okay. Turning to the first page, 24 Declaration of Frank Russo, who prepared this 25 document?</p>	<p style="text-align: right;">123</p> <p>1 you hear? 2 MR. KEOGH: Sure. 3 MR. VLAHAKIS: We gave you the 4 3,113. That was persons as opposed to cell 5 phone numbers. 6 A. The interrogatory I saw after the 7 fact, required us to identify the persons not 8 the cell phone numbers. Does that make sense. 9 Q. In part, yeah. So then I guess the 10 question is, taking a step backwards from this 11 affidavit, how many cell phone numbers were 12 were there for the 3,113 persons? 13 A. I believe, didn't we just cover 14 that? 15 MR. VLAHAKIS: Are you asking total 16 cell phone calls placed or numbers associated 17 with these persons? 18 MR. KEOGH: Cell phone numbers 19 associated with the persons. 20 THE WITNESS: So that would be 21 3,113-- hold on, read that question to me 22 again, please. There are so many numbers going 23 on. 24 Q. That's fine. We had we established 25 that due to some duplicate information the</p>
<p style="text-align: right;">122</p> <p>1 A. Declaration of Frank Russo? 2 Q. Yes, sir. 3 A. What would you be-- 4 Q. Who prepared it? 5 A. Who prepared it? 6 Q. Yes. 7 A. I would imagine my attorney did. 8 Q. Okay. Did you make any revisions to 9 the affidavit? 10 A. I didn't make any revisions. I 11 don't recall making any revisions. 12 Q. So, going to paragraph seven, which 13 is on page three of thirty of your affidavit, 14 "during the relevant time period"? 15 A. Yeah, I'm reading it now. 16 Q. Okay. Now, am I correct that 17 number should be modified as 3,113 calls rather 18 than 6,381? 19 A. Yes. 20 Q. So during the relevant time period 21 of the proposed class, January 1st, 2010 and 22 February 28th 2011, FCS called 3,113 cell phone 23 numbers in Illinois. Is that correct? 24 A. No. 25 MR. VLAHAKIS: Keith, can I help</p>	<p style="text-align: right;">124</p> <p>1 correct number of persons called on the cell 2 phone were 3,113; correct? 3 A. 3,113 people, yes. 4 Q. How many cell phone numbers? 5 A. 3,113. 6 Q. So there is no person with more 7 than one cell phone number? 8 A. I don't believe so, no. 9 Q. So back to paragraph seven, I'll 10 read it. I'll twitch the number. I want you 11 to tell me if I'm correct. During the relevant 12 time period of the proposed class, January 20, 13 2010 and February 28, 2011, FCS called 3,113 14 cell phone numbers in Illinois. Is that 15 correct? 16 A. That's correct. 17 Q. And then if we added, for a total 18 of 164,317 times. Is that correct? 19 A. That's what we said. It was-- 20 didn't we say 164,317. 21 Q. I believe so. All right. 22 MR. VLAHAKIS: I may have to clear 23 this up later, Keith, in case you want to keep 24 going down this road. 25 MR. KEOGH: Understood.</p>

<p style="text-align: right;">129</p> <p>1 paragraph twenty-three, please?</p> <p>2 <b>A. I'm going to read it.</b></p> <p>3 Q. Please go, ahead.</p> <p>4 <b>A. All right.</b></p> <p>5 Q. What does paragraph twenty-three</p> <p>6 state?</p> <p>7 <b>A. Do you want me to read it as stated</b></p> <p>8 <b>here?</b></p> <p>9 Q. Yes, if you want, or you can</p> <p>10 summarize?</p> <p>11 <b>A. "When Nuvel/GMAC transmitted this</b></p> <p>12 <b>account for collection to FCS, it provided two</b></p> <p>13 <b>numbers as plaintiff's contact number. 847 and</b></p> <p>14 <b>312. See Exhibit D, placement records and</b></p> <p>15 <b>Exhibit E (GMAC code sheet identifying 166-181</b></p> <p>16 <b>as the code from a home number)".</b></p> <p>17 Q. The 847 number that you referred</p> <p>18 to, the last four digits are 9705; correct?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. It is your understanding, as you</p> <p>21 sit here today, that is Mr. Pesce's cell phone</p> <p>22 number?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. So FCS' contention is that GMAC</p> <p>25 provided Mr. Pesce's cell phone number to FCS</p>	<p style="text-align: right;">131</p> <p>1 <b>matter for him, when he was absolutely upset</b></p> <p>2 <b>about his credit report like this? He have</b></p> <p>3 <b>that cell phone number, without a doubt.</b></p> <p>4 <b>On top of that, his wife calls in</b></p> <p>5 <b>and she--I just want to finish this. His wife</b></p> <p>6 <b>calls in and she provides GMAC with the cell</b></p> <p>7 <b>phone phone. Number which clearly shows that</b></p> <p>8 <b>his wife gave a cell phone number of her own.</b></p> <p>9 <b>Which shows that GMAC could have updated that</b></p> <p>10 <b>information right there at that point as well.</b></p> <p>11 Q. Okay. Is that it?</p> <p>12 <b>A. So I'm going to say it one more</b></p> <p>13 <b>time, I want an exclamation mark on this one.</b></p> <p>14 <b>Mr. Pesce gave the cell phone number with</b></p> <p>15 <b>consent, exclamation mark.</b></p> <p>16 Q. Well, if it is only that simple we</p> <p>17 wouldn't be here, would we?</p> <p>18 <b>A. I think it is that simple.</b></p> <p>19 Q. All right. Just to be clear, when</p> <p>20 you are referring to Ms. Pesce calling, giving</p> <p>21 her cell phone, there is no record of her</p> <p>22 giving the 9705 number, is there?</p> <p>23 <b>A. There isn't.</b></p> <p>24 Q. There is no record of GMAC</p> <p>25 verifying how the information from Mr. Pesce,</p>
<p style="text-align: right;">130</p> <p>1 to call; correct?</p> <p>2 <b>A. Mr. Pesce, absolutely, gave his</b></p> <p>3 <b>cell number to our client, without a doubt.</b></p> <p>4 Q. All right. What are you basing that</p> <p>5 on?</p> <p>6 <b>A. Lots of things. Number one, our</b></p> <p>7 <b>client GMAC never did, based on the discovery,</b></p> <p>8 <b>the information that was looked at, they never</b></p> <p>9 <b>did any call capture to get that cell phone</b></p> <p>10 <b>number. There is no evidence at all indicating</b></p> <p>11 <b>that our client, GMAC, did any skip tracing to</b></p> <p>12 <b>obtain that cell phone number.</b></p> <p>13 <b>On top of that, it is common</b></p> <p>14 <b>procedure for creditors, not just our clients,</b></p> <p>15 <b>but for creditors across the country, that when</b></p> <p>16 <b>a customer calls in or they contact somebody,</b></p> <p>17 <b>it is very customary that they will first seek</b></p> <p>18 <b>to update contact addresses, information from</b></p> <p>19 <b>that customer.</b></p> <p>20 <b>On top of that, your client, Mr.</b></p> <p>21 <b>Pesce was so concerned about his credit report</b></p> <p>22 <b>and wrote numerous letters back and forth to</b></p> <p>23 <b>our client, do you really think that Mr. Pesce</b></p> <p>24 <b>would not have given his cell phone number to</b></p> <p>25 <b>call back so that our client can resolve this</b></p>	<p style="text-align: right;">132</p> <p>1 that he gave the 9705 information, is there?</p> <p>2 <b>A. There is no indication of it right</b></p> <p>3 <b>now. But I can tell you this investigation to</b></p> <p>4 <b>get that is not over, my friends.</b></p> <p>5 Q. All right. Well we'll deal with it</p> <p>6 if it comes up later. Just let's just deal</p> <p>7 with it what we have now?</p> <p>8 <b>A. Right it is not over.</b></p> <p>9 Q. Do you have any communications from</p> <p>10 Mr. Pesce or have a mailing list, any documents</p> <p>11 of Mr. Pesce, giving the number 9705?</p> <p>12 <b>A. I don't believe so.</b></p> <p>13 Q. Are there any notations or any</p> <p>14 documents from GMAC showing that Mr. Pesce</p> <p>15 provided that 9705 number?</p> <p>16 <b>A. I did not see that.</b></p> <p>17 Q. So it seems to me that your</p> <p>18 exclamation point, to give it, is all based</p> <p>19 upon your belief that they had to get it from</p> <p>20 somewhere and it probably happened; am I wrong?</p> <p>21 <b>A. It is there, Keith and we'll find</b></p> <p>22 <b>it.</b></p> <p>23 Q. You are saying find it. Meaning</p> <p>24 you don't have it right now; correct?</p> <p>25 <b>A. We don't have it right now. But I</b></p>